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EXAMINER
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SALCE, JASON P

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/736,908  
Filing Date: December 14, 2000  
Appellant(s): KURAPATI, KAUSHAL

\_\_\_\_\_  
Anthony M. Del Zoppo, III  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 5/6/2008 appealing from the Office action mailed 10/30/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct

**(4) Status of Amendments After Final**

The statement of the status of claims contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

#### **(8) Evidence Relied Upon**

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

Ukai et al. (U.S. Patent No. 7,096,486)

Herz et al. (U.S. Patent No. 5,758,257)

#### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4, 7-8, 10-12, 14, 17-18 and 20-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ukai et al. (U.S. Patent No. 7,096,486).

Referring to claim 1, Ukai discloses a method for recommending items using a recommending device (**see Column 2, Lines 18-34**).

Ukai also discloses obtaining a list of one or more available items (**see Figure 3 and Column 4, Lines 41-43**).

Ukai also discloses obtaining a recommendation score, R, for said one or more available items (**see view score 502 in Figure 5 and Column 5, Lines 42-44 for the view score representing how long a program has been viewed, therefore the view score is representative of a preference/recommendation of how much the user enjoys viewing a program**).

Ukai also discloses calculating, using a processor of the recommending device, an adjustment, A, to said recommendation score, R (**see program view measure 504 in Figure 5**), based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered (**see Column 5, Lines 45-47 for calculating the program view measure 504 by dividing the sum of view scores by the number of serials of the series programs, therefore since Column 5, Lines 51-53 teaches that the program view measure 504 is calculated and updated everytime view score 502 or 503 is entered, when view score 502 is entered (the first program viewed in a series of programs) the adjustment/program view measure 504 is calculated, which is accomplished by dividing the sum of views scores (in this case, just view score 502) by the number of programs in the series of programs**), wherein the number of times the item was offered is greater than one (**see the examiner's comments above for the number of times a program is offered is represented by the number of programs in the series of programs, therefore, even when a single view score 502 is initially entered, the number of**

**times an item (program in a series of programs) was offered is represented by the number of programs in the series, which would be at least 1 or more), and wherein the number of times the item was offered and the number of times the item was selected by the user are stored in a memory (the examiner notes that when the preference view measure 504 is calculated (see Column 5, Lines 44-47) the processor inherently stores the number of times an item (program in a program series) is offered (the denominator of the preference view measure 504 calculation) in order for the processor to perform the calculation and further note that each view score 502 and 503 shows that a program has been selected at least once, therefore Ukai clearly teaches storing the number of times the item was selected by the user (0 if the program was not watched and a value between 0 and 1 if the program has been watched)).**

Ukai also discloses generating, using said processor, a combined recommendation score, C, based on said recommendation score, R, and said adjustment, A (**see Column 5, Lines 51-53 for recalculating a combined score using both view scores 502 and 503, and updating the adjustment/preference view measure 504, therefore the combined score is based on both the recommendation score/view score 502 and preference view measure 504).**

Ukai also discloses displaying said list on a display unit, wherein said items are displayed in order based on a value of said combined recommendation score, C (**see Column 18, Lines 35-45, Column 17, Lines 19-28 and Figure 25).**

Referring to claim 2, Ukai discloses that said list of one or more items are programs obtained from an EPG (**see again Column 18, Lines 35-45**).

Referring to claim 4, Ukai discloses that said recommendation score, R, is provided by an implicit program recommender (**see Column 5, Lines 40-55 for determining a view score based on how long a program has been viewed, therefore since the system automatically updates the table, the system provides an implicit program recommender**).

Referring to claim 7, Ukai discloses that said adjustment to said recommendation score, R, does not exceed a predefined value (**see Figure 5 for the preference view measure 504 not exceeding 1**).

Referring to claims 8 and 10, see the rejection of claims 1-2, respectively.

Referring to claims 11-12, 14 and 17, see the rejection of claims 1-2, 4 and 7, respectively.

Referring to claims 18 and 20, see the rejection of claims 1-2, respectively.

Referring to claims 21-22, see the rejection of claim 1.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5-6, 9, 13, 15-16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ukai et al. (U.S. Patent No. 7,096,486) in view of Herz et al. (U.S. Patent No. 5,758,257).

Referring to claim 3, Ukai discloses all of the claim limitations of claim 1, but fails to teach that said recommendation score, R, is provided by an explicit program recommender.

Herz discloses that a recommendation score, R, is provided by an explicit program recommender (**see Column 12, Lines 11-18 for the user explicitly defining a user profile**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program recommendation system, as taught by Ukai, by using the explicit program recommendation system by allowing to manually enter his/her preferences, as taught by Herz, for the purpose of providing data or video programming customized to a viewer objective preferences (**see Column 1, Lines 15-17 of Herz**).

Referring to claim 5, Ukai discloses all of the claim limitations in claim 1, but fails to teach that said recommendation score, R, is defined as a weighted average of individual rating of program features.



Herz discloses that a recommendation score, R, is defined as a weighted average of individual ratings of program features (**see Column 13, Lines 45-49 for providing a customer profile using the average weights of other customers in order to provide a weighted average value in a customer profile**).

***Note that the average weights are only provided for the case where a profile is implicitly defined, therefore the individual (each customer's) ratings of program features (location, demographics, what a customer watches) are averaged with other customers to provide the customer profile (which holds multiple recommendation scores) (see Column 11, Lines 26-29 and Lines 65-66).***

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program recommendation system, as taught by Ukai, by using the a weighted average, as taught by Herz, for the purpose of developing a technique for better acquiring and quantifying such customer video programming preferences (**see Column 3, Lines 52-54 of Herz**).

Referring to claim 6, Ukai discloses all of the claim limitations in claim 1, but fails to teach presenting said combined recommendation score, C, for each of said one or more items to a user.

Herz discloses presenting the combined recommendation score, C, for each of said one or more programs to a user (**see Column 45, Lines 50-55 for displaying a user's customer profile and the ability to modify the customer profile if needed**).

Also note Column 45, Lines 56-67 and Column 46, Lines 1-18 for further discussion of the user interfaced used to view and modify a customer profile (recommendation scores) and agreement matrix values (combined scores).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the program recommendation system, as taught by Ukai, by using the profile presentation system, as taught by Herz, for the purpose of providing data or video programming customized to a viewer objective preferences (**see Column 1, Lines 15-17 of Herz**).

Referring to claims 9, 16 and 19, see the rejection of claim 6.

Referring to claim 13, see the rejection of claim 3.

Referring to claim 15, see the rejection of claim 5.

## **(10) Response to Argument**

### **A. The Rejection of claims 1-2, 4, 7-8, 10-12, 14, 17-18 and 20-22 under 102(e)**

#### **Claims 1, 2, 4 and 7**

Applicant argues that Ukai does not state anything about enjoyment or enjoying a program and that Column 4, Lines 37-61 of Ukai does not even mention that the view scores 502 and 503 teach recommending programs for recording and future viewing. The examiner disagrees and notes that Ukai clearly states at Column 2, Lines 11-13

and 26-34 that favorite programs are selected for presentation to a viewer in order for the viewer to select a favorite program or for recording by the television system.

Applicant also argues that Table 700 is created based on Table 600 and the database 300, and neither Table 600 nor the database 300 include the view scores 502 and 503, therefore Ukai does not teach that view scores 502 and 503 are recommendation scores. The examiner disagrees and notes that Tables 600 and 700 includes the view score values in order to determine a viewer's favorite/preferred programs (**see Column 6, Lines 2-7 for Table 600 including the view score values and Column 6, Lines 34-38 for Table 700 including the program view measure, which is derived from the view scores 502 and 503**). Further note that view scores 502 and 503 clearly teaches how long a program was viewed (**see Column 5, Lines 40-42**), therefore the view scores clearly represent how much the user prefers the program based on how long the user has viewed the program.

Applicant further argues that view scores 502 and 503 are used to calculate the view measure 504, and not vice versa; the value of the first view score 502 is not adjusted when the view measure 504 changes. Applicant further notes that the value of the first view score 502 remains 1.0. Thus, regardless of how many view scores are in the database, the first view score 502 is what it is and it is not adjusted or changed.

The examiner notes that the claim limitations are broad and state, "calculating, using a processor of the recommending device, an adjustment, A, to said recommendation score, R". The claim limitation does not specifically recite that the

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value of R is adjusted or changed and only states that an adjustment is calculated to said recommendation score. The examiner has interpreted this limitation based on the teachings of the specification and by calculating the program view measure 504, a first and a second view score 502/503 must be added together and divided by two, thereby calculating an average time the viewer views a television program. By using a first view score 502 and a second view 503, the calculation of a program view measure 504 is representative of an adjustment to the first and the second video scores 502/503 because the program view measure 504 is representative of two view scores being averaged. For example, if a first view score is 0.6 and a second view score is 0.8, a program view measure for the two view scores would be 0.7, therefore the first view score is being adjusted +0.1 and the second view score is being adjusted by -0.1.

The examiner notes that this interpretation is consistent with the specification and that the adjustment disclosed by Applicant's specification fails to teach that the actual value of the recommendation score is adjusted or changed based on the calculated adjustment value. Figure 3 and Page 7, Line 29 through Page 8, Line 7 discloses two separate fields for the recommender score R and adjusted recommender score A. Therefore, Applicant's specification fails to teach that the field for score R is not adjusted, changed or modified and that the field for score A is representative of a value that has been calculated with the use of score R. Therefore, Ukai clearly teaches the claim limitations of calculating an adjustment score A to score R.

Applicant further argues that Ukai fails to teach that the adjustment be calculated based on a ratio of an item being selected by a user relative to the number of times the item was offered. The examiner disagrees and notes that Ukai clearly teaches that each view score 502/503 is entered into the database everytime a particular program is viewed (**see Column 5, Lines 40-47 and Figure 5 for a program “X TIME” being viewed twice with an entered first and second view score**). Therefore, since the adjustment is being interpreted by the examiner as program view measure 504 and the program view measure 504 is calculated using the average of the first and second view scores 502/503, the numerator of the ratio represents the item being selected (**how long the program “X TIME” was selected for each time the program airs**) and the denominator is the number of times the program was selected (**in this example the denominator would be 2 because there is a first and second view score**). Therefore, Ukai clearly teaches this claim limitation.

Regarding the arguments corresponding to the remaining claims rejected under 102(e), see the rebuttals above.

**B. The Rejection of claims 1-2, 4, 7-8, 10-12, 14, 17-18 and 20-22 under 102(e)**

Applicant argues that Herz fails to teach an explicit program recommender because Herz teaches a customer profile, which is determined from a customer questionnaire or ballot filled out by a customer. The examiner notes that by allowing a

user to **explicitly** provide the feedback used to determine the user favorite programs (see Column 19, Line 5 through Column 21, Line 67 for using the agreement matrix to determine a user's preferred programs and Column 24, Line 56 through Column 27, Line 6 for using the agreement matrix in a television system), then clearly Herz discloses the use of an explicit program recommender, because the user is explicitly providing the data processed by the system to make preferred program determinations.

Regarding the arguments corresponding to the remaining claims rejected under 103(a), see the rebuttal above.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jason Salce

/Jason P Salce/

Primary Examiner, Art Unit 2623

July 16, 2008

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